



Produce Marketing Association  
Member



**WILLIAM H. KOPKE, JR. INC.**

**IMPORTERS, EXPORTERS AND DISTRIBUTORS OF**

*Fruits and Produce*

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RE: Docket No. FV06-925-610 Review  
Federal Register Vol. 71, No. 34, Page 8810  
Grapes Grown in a Designated Area of Southeastern California  
Notice of Review and Request for Comments

**COMMENTS IN SUPPORT OF PERMANENTLY CHANGING THE EFFECTIVE DATE OF  
MARKETING ORDER NO. 925 AND ITS COMPANION IMPORT REGULATION NO. 4 TO  
MAY 1.**

Dear Docket Clerk:

This letter is a comment on the Table Grape Marketing Order No. 925 and the companion Table Grape Import Regulation No. 4. We believe the present effective dates of the marketing order are arbitrary and cause significant and unnecessary economic damage to consumers, dockworkers, truck drivers, retailers, port facilities, logistics firms, customs brokers, storage facilities, insurance companies, importers, and many other American businesses. Changing the start date to May 1 would provide economic relief to millions of Americans, without meaningful negative impact on the small group of California and Arizona grape growers that the Marketing Order is meant to benefit.

We are William H. Kopke Jr. Inc., an importer of grapes from Chile and other countries. In the past five years, our imports have represented approximately 10% of total imports of Chilean Grapes into the United States. We believe that our imports represent a statistically significant sample of the market, and therefore we provide statistics based upon the grapes that we have imported.

#### The Marketing Order is contrary to the spirit of the law

On September 3, 2003, President Bush signed a free trade agreement with Chile, which took effect on January 1, 2004. It is clearly the policy of our government to engage Chile economically by lifting trade barriers. The Marketing Order is a means of stifling foreign competition through non-tariff regulations. The Marketing Order therefore contradicts the spirit of the free trade agreement. In order to harmonize the regulation with the law, it is sensible to lessen the effect of the Marketing Order on Chile, by changing its starting date to May 1. Doing so will provide economic benefits to millions of Americans. As will be seen below, there will be no meaningful countervailing ill effects on US growers. Therefore it behooves us to make this change.

#### Changing the Start Date to May 1 will benefit millions of Americans

Currently, imports of Chilean green seedless grapes are prematurely ended by the Marketing Order on April 20. Chile has green seedless that could be imported after April 20, but the risk of failure to grade US#1 after the two-week voyage by sea is too great to support the tremendous cost of ocean freight. Because alternative supplies of green seedless are unavailable in commercially meaningful quantities until approximately May 16 (see below), the consumer is unable to buy fresh grapes in the first half of May. Changing the start date of the Marketing Order to May 1 would allow the consumer to have fresh Chilean grapes in the first half of May. The additional eleven days of imports would provide more jobs for dockworkers and truck drivers, more chance for port facilities to recoup the tremendous expenses involved in operating a modern port facility, more cargo for insurers to insure, more product for retailers to sell, etc. If, on the contrary, the effective date of the marketing order were to be moved earlier, the fewer days of imports would take jobs away from dockworkers and truck drivers, and would be a financial hardship to port operators and the thousands of other businesses engaged in the transport, storage, and selling of green seedless grapes. Recent events have shown us the importance placed by the public on having American companies running our ports. These companies cannot remain in business if cargo is effectively barred from entry.

#### Changing the Start Date to May 1 will have little adverse impact on domestic grape growers

##### A. Green seedless grapes



We have examined the USDA Western Fruit Report Table Grape Supplement to determine when commercially meaningful supplies of domestic grapes first became available in the past five years. We regard a pack-out of 100,000 cases per day to be commercially meaningful. This translates to 600,000 cases of grapes per week, or approximately 25% of an average week's supply from Chile during the Chilean season:

<u>Year</u>	<u>First Coachella pack-out of 100,000 boxes</u>
2001	May 25
2002	May 16
2003	May 12
2004	May 11
2005	May 18

If we take the average of the dates in May, we obtain May 16 as the average date of first pack-out of more than 100,000 boxes.

We propose delaying the start of the marketing order by eleven days. Therefore we consider the historical sales of our firm of Thompson seedless on or after May 5, which is eleven days before the average date of first meaningful domestic supplies. Over the years 2001-2005, we have sold on average approximately 33,000 boxes of Thompson seedless on or after May 5. Since our firm represents approximately 10% of Chilean grape imports, we extrapolate that importers sold approximately on average 330,000 boxes of grapes after May 5. This is about one day's supply of green seedless in the height of the season. It follows that delaying the start of the marketing order will have little impact on domestic growers, because the amount of competitive overlap will be minimal.

At this point, we interpolate a counter-argument against those who would advance the start date to a date earlier than April 20. As above, we note that commercially meaningful supplies of domestic grapes do not exist until on average May 16. Our sales of Chilean Thompsons on or after May 16 are historically as follows:

<u>Year</u>	<u>Percentage of our Chilean Thompson imports Sold on or after May 16</u>
2001	0.065%
2002	0.002%
2003	0.005%
2004	0.016%
2005	0.543%

On average, we have sold approximately one eighth of one percent of our Chilean Thompson seedless on or after May 16. It follows that there is now extremely little competition between Chilean and domestic green seedless grapes. To increase the scope of the Marketing Order by moving the start date earlier would have no meaningful effect on competition in the market for green seedless grapes.

#### *B. Red seedless grapes*

Our experience shows that Chilean Crimson seedless have little difficulty meeting the US#1 standard at arrival. Indeed, many Chilean Crimsons are imported during the regulatory period. Consequently,

delaying the start of the Marketing Order will have little effect on supplies of red seedless grapes. On the other hand, if the Marketing Order is in put into effect earlier than April 20, it is likely that imports of Chilean Crimson seedless will increase to fill the void left by the Thompsons that are excluded from the market.

A handwritten signature in blue ink, appearing to be 'P. W. Kopke Jr.', written in a cursive style.

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